

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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GARFIELD ANTHONY WILLIAMS,

Plaintiff,

-against- Index No.: 1:20-cv-5995

THE CITY OF NEW YORK;

POLICE OFFICER OSCAR HERNANDEZ, TAX ID NO.

967545;

POLICE OFFICER JOSEPH OTTAVIANO, TAX ID. NO.

963677,

DETECTIVE RUBEN LEON, BADGE NO. 4232,

Defendants.

-----X

\*REMOTE DEPOSITION\*

OF one of the Defendants:

POLICE OFFICER JOSEPH OTTAVIANO

HELD: THURSDAY, FEBRUARY 3, 2022

11:06 a.m. - 1:27 p.m.

CASE #: 562688

1

2 This is the ZOOM Deposition of one of the  
3 Defendants, POLICE OFFICER JOSEPH OTTAVIANO,  
4 taken pursuant to Order, held via ZOOM  
5 VIDEOCONFERENCE; testimony reported via  
6 steno machine by LAURA ANTIDORMI, and witness  
7 being duly sworn by ROBERTA-ANNE SCHMITT,  
8 REGISTRATION # 01SC4969685, Certified Notary  
9 Public within and for the State of New York

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1 A P P E A R A N C E S:

2 \*\*ALL PARTIES APPEARED REMOTELY\*\*

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18 BY: WILLIAM GOSLING, ESQ.

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20 File #: 2020-026925

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|----|--|--|------|
| 1  | I N D E X                                |  |      |
| 2  | TO TESTIMONY                             |  |      |
| 3  | WITNESS: POLICE OFFICER JOSEPH OTTAVIANO |  |      |
| 4  | EXAMINATION BY                           | PAGE (S)   |      |
| 5  | MR. LORD                                 | 14   |      |
| 6  | MR. GOSLING                              | 130  |      |
| 7  | TO EXHIBITS MARKED                       |  |      |
| 8  | (Attached to transcript)                 |  |      |
| 9  | PLAINTIFF'S                              | DESCRIPTION  | PAGE |
| 10 | Exhibit 1                                | New York City Police<br>Department Arrest Report -<br>B19649648, Bates stamped<br>D_00016 to D_00019,<br>consisting of 4<br>pages; attached hereto | 104  |
| 11 | Exhibit 2                                | Not Marked   | 123  |
| 12 |  |  |      |
| 13 |  |  |      |
| 14 |  |  |      |
| 15 |  |  |      |
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|----|--|------|
| 1  | I N D E X                                |      |
| 2  | TO REQUESTS                              |      |
| 3  | (All requests to be followed up in       |      |
| 4  | writing by requesting counsel.)          |      |
| 5  | DESCRIPTION                              | PAGE |
| 6  | Mr. Gosling requests the releases that   | 135  |
| 7  | were previously sent to Plaintiff for    |      |
| 8  | the T-Mobile, Progressive Insurance,     |      |
| 9  | among others, I think, it was taxes as   |      |
| 10 | well, that was served approximately, two |      |
| 11 | weeks ago                                |      |
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1           REMOTE OATH BY REPORTER ACKNOWLEDGEMENT

2       The attorneys participating in this deposition  
3       acknowledge that the reporter is not  
4       physically present in the deposition room and  
5       that he/she will be reporting this deposition  
6       remotely. They further acknowledge that, in  
7       lieu of an oath administered in person, the  
8       reporter will administer the oath remotely,  
9       pursuant to Executive Order Number 202.7,  
10      issued by New York State Governor Andrew M.  
11      Cuomo on March 19, 2020. All parties and  
12      their counsel consent to this arrangement and  
13      waive any objections to this manner of  
14      reporting.

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1           221. UNIFORM RULES FOR DEPOSITIONS

2       221.1 Objections at Depositions

3       a) Objections in general: No objections shall  
4       be made at a deposition except those which,  
5       pursuant to subdivision (b), (c) or (d) of  
6       Rule 3115 of the Civil Practice Law and Rules,  
7       would be waived if not interposed, and except  
8       in compliance with subdivision (e) of such  
9       rule. All objections made at a deposition  
10      shall be noted by the officer before whom the  
11      deposition is taken, and the answer shall be  
12      given and the deposition shall proceed subject  
13      to the objections and to the right of a person  
14      to apply for appropriate relief pursuant to  
15      Article 31 of the CPLR.

16      b) Speaking objections restricted: Every  
17      objection raised during a deposition shall be  
18      stated succinctly and framed so as not to  
19      suggest an answer to the deponent and, at the  
20      request of the questioning attorney, shall  
21      include a clear statement as to any defect in  
22      form or other basis of error or irregularity.  
23      Except to the extent permitted by CPLR Rule  
24      3115 or by this rule, during the course of the  
25      examination, persons in attendance shall not

1           221. UNIFORM RULES FOR DEPOSITIONS

2       make statements or comments that interfere  
3       with the questioning.

4       221.2 Refusal to answer when objection is made  
5       A deponent shall answer all questions at a  
6       deposition, except (i) to preserve a privilege  
7       or right of confidentiality, (ii) to enforce a  
8       limitation set forth in an order of the court,  
9       or (iii) when the question is plainly improper  
10      and would, if answered, cause significant  
11      prejudice to any person. An attorney shall  
12      not direct a deponent not to answer except as  
13      provided in CPLR Rule 3115 or this  
14      subdivision. Any refusal to answer or  
15      direction not to answer shall be accompanied  
16      by a succinct and clear statement of the basis  
17      therefor. If the deponent does not answer a  
18      question, the examining party shall have the  
19      right to complete the remainder of the  
20      deposition.

21       221.3 Communication with the deponent  
22       An attorney shall not interrupt the deposition  
23       for purposes of communicating with a deponent  
24       unless all parties consent or communication is  
25       made for the purpose of determining whether

221. UNIFORM RULES FOR DEPOSITIONS

the question should not be answered on the grounds set forth in section 221.2 of these rules and, in such event, the reason for the communication shall be stated for the record succinctly and clearly.

7 IT IS FURTHER STIPULATED AND AGREED that the  
8 transcript may be signed before any Notary  
9 Public with the same force and effect as if  
10 signed before a clerk or a judge of the court.

11 IT IS FURTHER STIPULATED AND AGREED that the  
12 examination before trial may be utilized for  
13 all purposes as provided by the CPLR.

14 IT IS FURTHER STIPULATED AND AGREED that all  
15 rights provided to all parties by the CPLR  
16 cannot be deemed waived, and the appropriate  
17 sections of the CPLR shall be controlling with  
18 respect hereto.

19 IT IS FURTHER STIPULATED AND AGREED by and  
20 between the attorneys for the respective  
21 parties hereto that a copy of this examination  
22 shall be furnished, without charge, to the  
23 attorneys representing the witness testifying  
24 herein.

\* \* \* \*

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 THIS IS THE REMOTE ZOOM

3 DEPOSITION OF POLICE OFFICER JOSEPH OTTAVIANO,  
4 one of the Defendants herein, produced  
5 pursuant to ORDER, on THURSDAY, FEBRUARY 3,  
6 2022, before LAURA ANTIDORMI, Court Reporter.

7 \* \* \* \* \*

8 THE REPORTER: The  
9 attorneys participating in this  
10 deposition acknowledge that I  
11 am not physically present in  
12 the deposition room and that I  
13 will be reporting the  
14 deposition remotely. They  
15 further acknowledge that in  
16 lieu of an oath administered in  
17 person, the witness will be  
18 sworn in remotely by a New York  
19 notary public and the witness  
20 will verbally declare his  
21 testimony in this matter is  
22 under penalty of perjury.

23 The parties and their  
24 counsel consent to this  
25 arrangement and waive any

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 objections to this manner of  
3 reporting.

4 Please indicate your  
5 agreement by stating your name,  
6 who you represent, and your  
7 agreement on the record in the  
8 order of the caption.

9 MR. LORD: My name is  
10 Masai I. Lord. I represent the  
11 Plaintiff, Garfield Anthony  
12 Williams, and I consent.

13 MR. GOSLING: My name is  
14 William Gosling. I am the  
15 attorney for Police Officer  
16 Ottavino, and I consent.

17 THE REPORTER: Thank you.  
18 The notary will now swear  
19 in the witness.

20 THE NOTARY: Good morning  
21 everybody. My name is  
22 Roberta-Anne Schmitt. I am a  
23 notary public qualified in the  
24 State of New York. My  
25 registration number is

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 01SC4969685. My commission  
3 expires July 23rd, 2022. I am  
4 here to administer the oath to  
5 the witness.

6 Police Officer Ottaviano,  
7 would you please raise your  
8 right hand.

9 THE WITNESS: (Complied.)

10 THE NOTARY: Do you  
11 solemnly swear or affirm that  
12 the testimony you're about to  
13 give today will be true under  
14 the penalties of perjury?

15 THE WITNESS: I do.

16 THE NOTARY: Thank you so  
17 much. You can lower your hand.

18 Will you please state your  
19 full name for the record.

20 THE WITNESS: Joseph  
21 Ottaviano.

22 THE NOTARY: Thank you so  
23 much.

24 And that's spelled  
25 O-T-T-A-V-I-A-N-O?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 THE WITNESS: Correct.

3 THE NOTARY: Thank you so  
4 much.

5 Counsel, are we using the  
6 100 Church Street address for  
7 Mr. Ottaviano's address on the  
8 record?

9 MR. GOSLING: Yeah. I  
10 mean, you could put One Police  
11 Plaza for his address, but  
12 nothing is going to be mailed  
13 to him, right?

14 THE NOTARY: No, it's just  
15 his address for the record.

16 MR. GOSLING: You could  
17 put One Police Plaza. So it's  
18 in New York, New York 10038.

19 THE NOTARY: Thank you so  
20 much.

21 \* \* \* \* \*

22

23

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25

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 POLICE OFFICER JOSEPH OTTAVIANO  
3 called as the witness, hereinbefore named,  
4 being first duly cautioned and sworn or  
5 affirmed remotely by Roberta-Anne Schmitt,  
6 Registration # 01SC4969685, Notary Public in  
7 and for the State of New York herein, to tell  
8 the truth, the whole truth, and nothing but  
9 the truth, was examined and testified as  
10 follows:

11 EXAMINATION

12 BY MR. LORD:

13 Q Good morning, Officer  
14 Ottaviano.

15 Am I pronouncing that  
16 correctly?

17 A Yes, that's good.

18 Q Good morning.

19 A Good morning.

20 Q So my name is Masai Lord. I  
21 represent the Plaintiff in this  
22 action, Garfield Anthony  
23 Williams, and I'm going to be  
24 asking you some questions today  
25 relating to the incident and

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 arrest that took place on  
3 December 15th to 16th for 2019.

4 I just want to start with  
5 some ways that I want you to  
6 answer some questions, because we  
7 have a Court Reporter taking this  
8 down.

9 First, have you testified  
10 under oath before?

11 A Yes.

12 Q So as you're probably aware,  
13 the Court Reporter can't take  
14 down any nonverbal gestures, so  
15 if you do make a gesture in terms  
16 of indicating something happened,  
17 give me a chance to describe it  
18 for the record. But if you're  
19 making a gesture in terms of  
20 answering a question, make sure  
21 that you say the full answer  
22 verbally so she can record it.

23 Because the Court Reporter  
24 is also taking down questions, we  
25 can't speak at the same time. So

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 if you have a question, let me  
3 finish my question first before  
4 you answer it.

5 If you want to say something  
6 in terms of a previous question  
7 that was asked, please let me  
8 know. And if I'm not in the  
9 middle of a question, I'll try to  
10 accommodate that, but the most  
11 important thing is that we just  
12 can't talk over each other to  
13 make sure that the record is  
14 clear.

15 Do you understand everything  
16 that I've said?

17 A Yes.

18 Q So have you reviewed any  
19 documents in preparation for this  
20 deposition?

21 A I have.

22 Q What documents have you  
23 reviewed?

24 A The arrest report, my memo  
25 book and my body-camera footage.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q So just to confirm, you  
3 reviewed the arrest report, your  
4 memo book and body-cam footage.

5 Did you review just your  
6 body-cam footage, or other  
7 officer's body-cam footage?

8 A Just mine.

9 Q Are those the only things  
10 that you reviewed -- only  
11 documents that you reviewed in  
12 preparation for this deposition?

13 A Yes.

14 Q In the course of the case,  
15 did you prepare any documents  
16 relating to the arrest of Mr.  
17 Williams on December 15th,  
18 December 16th, 2019?

19 A No.

20 Q You did prepare your memo  
21 book?

22 A Yes. During that day, yes.

23 Q You don't consider that  
24 related to the arrest?

25 A No, I thought you meant like

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 after, after the fact. Not since  
3 that day, I don't have any other  
4 notes.

5 Q Outside of your attorney, or  
6 any attorneys that represented  
7 you in this action, have you  
8 discussed this case with anyone?

9 A Yes.

10 Q Who have you discussed the  
11 case with?

12 A Just the arresting officer,  
13 Hernandez.

14 Q When did you discuss the  
15 case with him?

16 A I can't recall the exact  
17 day.

18 Q So just quick background  
19 questions: What's your highest  
20 level of education?

21 A I have a bachelor's degree.

22 Q Have you received any  
23 commendations since you've been  
24 employed by the New York Police  
25 Department?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A No.

3 Q Have you received any formal  
4 discipline since you've been  
5 employed by the New York Police  
6 Department?

7 MR. GOSLING: I believe he  
8 froze.

9 A "No," to that last question.

10 BY MR. LORD:

11 Q Are you aware if you have  
12 ever been sued in state or  
13 federal court relating to your  
14 duties for the New York Police  
15 Department?

16 MR. GOSLING: Objection.

17 You can answer.

18 A Yes.

19 BY MR. LORD:

20 Q Can you tell me what  
21 lawsuits?

22 A It was -- I believe it was a  
23 lawsuit. I think it was in 2017,  
24 for an arrest.

25 Q Do you know the outcome of

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 that lawsuit?

3 A No, I don't know. I don't  
4 know the outcome.

5 Q Did you testify at a  
6 deposition?

7 A No.

8 Q Have you ever had CCRB  
9 complaints against you?

10 A No.

11 Q Have you received any  
12 discipline not related to a CCRB  
13 or a lawsuit?

14 MR. GOSLING: Objection.

15 You can answer.

16 Just give me a minute to  
17 object to the question.

18 BY MR. LORD:

19 Q So just to confirm, you've  
20 never been disciplined by New  
21 York Police Department?

22 MR. GOSLING: Objection.

23 You can answer.

24 A No.

25

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q                 What is your current title?

4 A                 Police officer.

5 Q                 Have you received any  
6                   promotions since you started  
7                   working for the New York Police  
8                   Department?

9 A                 No.

10 Q                 What year did you start  
11                   working for New York Police  
12                   Department?

13 A                 I started in 2017.

14 Q                 And just to confirm, you  
15                   still currently work for New York  
16                   Police Department?

17 A                 I do.

18 Q                 What are your current duties  
19                   as a police officer?

20 A                 I am currently a patrol  
21                   officer in the 48th Precinct.

22 Q                 What are your duties as a  
23                   patrol officer?

24 A                 Patrol officers can conduct  
25                   arrests, issues summonses,

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 protect the community, write  
3 reports; things like that.

4 Q Have you been a patrol  
5 officer since you started from  
6 the academy?

7 MR. GOSLING: Objection.

8 You could answer.

9 A I have.

10 BY MR. LORD:

11 Q Have you worked with any  
12 other precincts besides the 48th  
13 Precinct?

14 A No.

15 Q Are you on any special  
16 tactical groups or response  
17 groups in NYPD?

18 A No.

19 Q Have you previously or at  
20 any time served in the military?

21 A No.

22 Q How many times,  
23 approximately, have you testified  
24 under oath?

25 A Approximately, five or six

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 times.

3 Q Can you just give a general  
4 outline of what type of  
5 proceedings you were testifying  
6 in?

7 A They were a trial and a  
8 hearing, hearings.

9 Q And you would testify, I  
10 guess, in coordination with the  
11 Bronx District Attorney's office?

12 MR. GOSLING: Counselor,  
13 are you asking him -- like, are  
14 you asking him to confirm  
15 whether or not his testimony  
16 was in criminal proceedings or  
17 civil proceedings, or something  
18 else?

19 MR. LORD: Yes. Actually,  
20 yes.

21 BY MR. LORD:

22 Q So was your testimony in  
23 criminal or civil proceedings or  
24 both?

25 A Criminal.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Did you receive training in  
3 how to testify?

4 MR. GOSLING: Objection.

5 You could answer.

6 A Yes.

7 BY MR. LORD:

8 Q In that training, was that  
9 at the academy?

10 MR. GOSLING: Objection.

11 You can answer.

12 A Correct.

13 BY MR. LORD:

14 Q How many arrests have you  
15 made while you've been employed  
16 by New York Police Department?

17 A I made 151 arrests.

18 Q Are you aware of the crime  
19 that you make the most arrests  
20 for?

21 MR. GOSLING: Objection.

22 You can answer.

23 A I'm sorry. Could repeat  
24 that question? You cut out.

25

1           Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3           Q           What crime do you make --  
4                       Out of your 151 arrests,  
5                       what crime do you mostly arrest  
6                       people for?

7                       MR. GOSLING: Objection.

8                       You can answer.

9           A           I make varied --  
10                  Assault is a big one.  
11                  Assault, a lot of assault  
12                  arrests.

13 BY MR. LORD:

14           Q           Have you made any arrests  
15                  for driving while intoxicated?

16                       MR. GOSLING: Objection.

17                       You can answer.

18           A           Yes.

19 BY MR. LORD:

20           Q           And how many of those  
21                  arrests have you made?

22                       MR. GOSLING: Objection.

23                       You can answer.

24           A           Approximately, four to five.

25

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3                   Q                 As part of your duties as a  
4                                     patrol officer, do you write  
5                                     accident reports?

6                   A                 Yes.

7                   Q                 How many accident reports,  
8                                     approximately, have you written?

9                                     MR. GOSLING: Objection.

10                  A                 Approximately, 20 to 30.

11 BY MR. LORD:

12                  Q                 So did you receive training  
13                                     in how to write accident reports?

14                  A                 Yes.

15                  Q                 Did you receive training in  
16                                     how to view the signs of  
17                                     intoxication for a DWI?

18                  A                 Yes.

19                  Q                 Can you describe some of the  
20                                     training you received?

21                                     MR. GOSLING: Objection.

22                                     You could answer.

23                  A                 Yeah, it was like training  
24                                     that I received at the academy.

25

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3                   Q                 What type of training did  
4    you receive at the academy?

5                   A                 It was the signs of --  
6    telltale sings of intoxication of  
7    an individual while they're  
8    driving a vehicle. Things like  
9    that.

10                  Q                 Can you describe in detail  
11    any of the training that you  
12    received?

13                  A                 Yeah. I mean, I did. There  
14    was a class about signs of  
15    intoxication from an individual  
16    if they're behind the wheel of a  
17    vehicle. And do you want me to  
18    tell you the signs? Is that what  
19    you're asking for?

20                  Q                 Yes. Can you please say  
21    some of the signs of intoxication  
22    that you were taught at the  
23    academy?

24                  A                 Yeah, slurred speech, blurry  
25    eyes, bloodshot eyes, odor of

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 alcohol on the individual's  
3 breath. Imbalance.

4 Q Did you receive any training  
5 after the academy?

6 MR. GOSLING: Objection.

7 You could answer.

8 A I can't recall any other  
9 training after that, no.

10 BY MR. LORD:

11 Q Do you receive training in  
12 the academy about an individual's  
13 right to Counsel?

14 MR. GOSLING: Objection.

15 You could answer.

16 A I can't specifically  
17 remember if there was a class  
18 about that or not.

19 BY MR. LORD:

20 Q Well, let me be more  
21 specific.

22 Did you receive any training  
23 in what a police officer can and  
24 cannot do once an individual's  
25 right to Counsel is invoked?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: Objection.

3 You could answer.

4 A I can't. I can't recall  
5 that, specifically.

6 BY MR. LORD:

7 Q Do you receive any training  
8 in what an individual can do --

9 MR. LORD: Withdrawn.

10 BY MR. LORD:

11 Q Do you receive any training  
12 what an officer can do, once an  
13 individual invokes a right to  
14 Counsel, after the academy?

15 MR. GOSLING: Objection.

16 You can answer.

17 A Yes.

18 BY MR. LORD:

19 Q When did you receive that  
20 training?

21 A The academy.

22 Q So you're now saying you did  
23 receive it in the academy?

24 MR. GOSLING: Objection.

25 I don't think --

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 I think you're  
3 mischaracterizing his  
4 testimony, but you can answer.

5 MR. LORD: I don't think I  
6 am, but he could answer.

7 A Yeah, at the academy about  
8 when someone --

9 When someone's arrested and  
10 they refuse to, like, answer any  
11 questions after they've been  
12 arrested, in regards to wanting  
13 rights to an attorney. If that's  
14 my answer -- I thought that was  
15 what you were referring to.

16 BY MR. LORD:

17 Q If someone --

18 MR. LORD: Withdrawn.

19 BY MR. LORD:

20 Q If someone has not been  
21 arrested and they invoke the  
22 right to Counsel or say they want  
23 to talk to a lawyer, do you make  
24 a negative inference from that  
25 statement?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Do I make a what? Sorry.

3 Q A negative inference.

4 MR. GOSLING: Objection.

5 Counsel, I've been --

6 I'm not really sure what  
7 the line of questioning you're  
8 going into. It seems to say  
9 legalese, legal language.

10 MR. LORD: He's a trained  
11 police officer. I'm taking  
12 about training he's received.

13 If this is something outside of  
14 the scope, I understand that,  
15 but I'm asking him, and it's  
16 very clear, if someone invokes  
17 a right to Counsel or chooses  
18 to say, "I want to talk to a  
19 lawyer," do you view that as a  
20 consciousness of guilt?

21 MR. GOSLING: Do you  
22 review it as what?

23 MR. LORD: View it as a  
24 consciousness of guilt.

25 MR. GOSLING: Okay. I

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 just think your question was a  
3 little confusing.

4 You could answer.

5 A No -- no, negative -- no,  
6 nothing negative on that.

7 BY MR. LORD:

8 Q Okay. So I want to direct  
9 your attention to December 15th,  
10 2019.

11 What was your tour that day?

12 A My tour was 11:15 p.m. by  
13 07:50 a.m.

14 Q Were you in plainclothes or  
15 uniform?

16 A I was in uniform.

17 Q Were you working with a  
18 partner?

19 A Yes.

20 Q Who was your partner?

21 A That day was Officer  
22 Hernandez.

23 Q Is that the same Officer  
24 Hernandez who is listed in the  
25 lawsuit?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yes.

3 Q Were you part of a larger  
4 unit, you and Officer Hernandez?

5 MR. GOSLING: Objection.

6 You could answer.

7 A "Larger unit"? Like what do  
8 you mean by that?

9 BY MR. LORD:

10 Q Well, you were on patrol.

11 Was it just you and Officer  
12 Hernandez were the only ones who  
13 were on patrol?

14 MR. GOSLING: Objection.

15 You could answer.

16 A Yeah, there were other  
17 officers on patrol that day, if  
18 that's what you're asking, yes.

19 BY MR. LORD:

20 Q Were you working in  
21 coordination with the other  
22 officers who were on patrol, or  
23 were you independently doing your  
24 patrol?

25 A It's a correlation.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q At, approximately, what time  
3 did you hear that there was an  
4 accident involving Mr. Anthony  
5 Williams?

6 A I can't recall the specific  
7 time -- specific time it was  
8 exactly.

9 Q Do you know where you --  
10 MR. LORD: Withdrawn.

11 BY MR. LORD:

12 Q Do you know where you were  
13 prior to arriving on the scene?  
14 MR. GOSLING: Objection.  
15 You could answer.

16 A Yeah, I mean, upon arrival  
17 on the scene, we were en route to  
18 the call that we had gotten, a  
19 911 call, as far as a vehicle  
20 accident on the highway.

21 BY MR. LORD:

22 Q So you were responding to a  
23 911 call when you arrived on the  
24 scene?

25 A Yes.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q How long did it take you to  
3 get there, once you received the  
4 911 call, or notice of it?

5 A I would say, approximately,  
6 between, maybe, five to ten  
7 minutes.

8 Q What was the content of this  
9 911 call?

10 A A vehicle accident.

11 Q And to your knowledge, are  
12 these calls recorded?

13 A I mean, they're transmitted  
14 through our radio, so, I mean,  
15 there's recordings of it, of the  
16 job, through our radios.

17 Q Do you know where you were  
18 at when you received the 911  
19 notification of a car accident?

20 A You mean prior to getting  
21 that?

22 Q Yes.

23 A No, I don't know exactly  
24 where I was before then.

25 Q When you received this

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 notification, did you discuss it  
3 at all with Officer Hernandez?

4 MR. GOSLING: Objection.

5 You can answer.

6 A Just that we -- just that,  
7 that we had another 911 call in  
8 regards to an accident that we  
9 had to respond to. Other than  
10 that, nothing specific.

11 BY MR. LORD:

12 Q So you say it took you about  
13 five to ten minutes to arrive on  
14 the scene?

15 A Approximately, I would say,  
16 yes.

17 Q So I want to talk to you  
18 strictly about the observations  
19 that --

20 MR. LORD: Withdrawn.

21 BY MR. LORD:

22 Q I want to talk to you about  
23 what you observed when you  
24 arrived on the scene.

25 Who was present?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: Objection.

3 You could answer.

4 A Well, myself, my partner,

5 Hernandez. EMS was on scene.

6 Individuals that were involved in

7 the accident.

8 BY MR. LORD:

9 Q Can you name all the  
10 individuals that were on the  
11 scene who were not police  
12 officers or EMS?

13 MR. GOSLING: Objection.

14 To the extent that you  
15 know, you could answer.

16 A No, I can't recall any other  
17 specific names.

18 BY MR. LORD:

19 Q Do you know, approximately,  
20 how many people it was?

21 A In total, probably between,  
22 maybe, ten to 12 people.

23 Q Do you remember how many of  
24 these people were not police  
25 officers or EMS?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Me, Hernandez, obviously  
3 were, and then there is some  
4 officers from the emergency  
5 service unit that were on scene.  
6 So a few of them.

7 Q You said the name, bird?

8 A No. Myself, Officer  
9 Hernandez and then there was  
10 officers from the emergency  
11 service unit that were on the  
12 scene prior to us getting there.

13 Q What was the condition of  
14 the vehicles when you arrived on  
15 the scene?

16 A They were both damaged.

17 Q Was one damaged more  
18 severely than the other?

19 A I believe so. I think one  
20 of them had to get towed because  
21 it was unable to drive.

22 Q When you arrived on the  
23 scene, was any car blocking the  
24 intersection?

25 MR. GOSLING: Objection.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 You could answer.

3 Just to be clear, Counsel,  
4 when you're saying  
5 "intersection," are you  
6 referring to, like, the lane?

7 MR. LORD: Yes.

8 BY MR. LORD:

9 Q Was any vehicle blocking the  
10 lane on the highway?

11 A Yes.

12 Q Do you remember which  
13 vehicle was blocking the lane on  
14 the highway?

15 A I believe the two vehicles  
16 that were involved in it were  
17 both in separate lanes, if I  
18 could recall properly. So other  
19 than, those two. And besides the  
20 ambulance that was on scene, that  
21 would have been stopped in the  
22 lane as well.

23 Q Now, you mentioned earlier  
24 they were ESU officer on the  
25 scene.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Did you speak to any of  
3 these officers?

4 A I can't recall if I  
5 specifically spoke to one of them  
6 in particular, no.

7 Q Did Officer Hernandez speak  
8 to any of these officers?

9 A I'm not sure who he spoke  
10 to.

11 Q Were you next to him when he  
12 arrived on the scene?

13 MR. GOSLING: Objection.  
14 You could answer.

15 A Yes, we were next to each  
16 other.

17 BY MR. LORD:

18 Q Were you able to observe his  
19 actions while he was on the  
20 scene?

21 MR. GOSLING: Objection.  
22 You can answer.

23 A You're talking about Officer  
24 Hernandez?  
25

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3 Q                 Yes.

4 A                 Can you repeat that question  
5                   one more time?

6 Q                 While you were at the scene,  
7                   were you able to observe what  
8                   Officer Hernandez was doing?

9                   MR. GOSLING: Objection.

10                  You can answer.

11 A                 Yes.

12 BY MR. LORD:

13 Q                 At any point did you see  
14                   Officer Hernandez talk to a  
15                   member of the ESU unit?

16                   MR. GOSLING: Objection.

17                  You could answer.

18 A                 No, I can't specifically  
19                   remember if he had spoke to  
20                   somebody at a certain point.

21 BY MR. LORD:

22 Q                 You said --

23                   MR. LORD: Withdrawn.

24 BY MR. LORD:

25 Q                 Did you speak to a member of

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 the ESU Unit?

3 A Yeah, I can't recall if I  
4 spoke to a member of the ESU that  
5 was there. Possibly, but I can't  
6 recall.

7 Q When you arrived on the  
8 scene, you're only aware that  
9 there was a car accident?

10 A No.

11 Q What else did you know?

12 A Well, when I got to the  
13 scene, I spoke to the person  
14 questioning about what happened,  
15 and I also spoke to the other guy  
16 who was in the accident.

17 Q So you spoke to Mr. Jimenez,  
18 I believe is his last name? You  
19 could answer.

20 MR. GOSLING: Counsel, are  
21 you referring to --

22 MR. LORD: I probably got  
23 his name wrong. Give me one  
24 second.

25 (At which time, there

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 was a brief pause in the  
3 proceedings.)

4 MR. LORD: Do you know it  
5 offhand?

6 MR. GOSLING: No, but I  
7 think if you just refer to who  
8 that individual is, I think  
9 that might make more sense.

10 MR. LORD: I got the name  
11 correct.

12 BY MR. LORD:

13 Q Are you familiar with the  
14 name Carlos Jimenez?

15 A No, I'm not familiar with  
16 it. No.

17 Q So you say you spoke with an  
18 individual involved in the  
19 accident.

20 Can you describe the  
21 individual?

22 A He was sitting in the back  
23 of a vehicle, and there was  
24 another lady in the driver's  
25 seat, but the person I was

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 speaking to was in the back, in  
3 the back seat.

4 Q Do you know the race of the  
5 individual?

6 A I believe he was black.

7 Q Can you describe any facial  
8 features or his hair?

9 A Yeah, he had kind of  
10 medium-length hair, braids.

11 Q At any point did you find  
12 out the identity of this  
13 individual?

14 A Yes.

15 Q What was his name?

16 A I believe it was Garfield.

17 Q Now, you say you spoke to  
18 him in the back of --

19 MR. LORD: Withdrawn.

20 BY MR. LORD:

21 Q You said he was in the back  
22 of a car when you spoke with him,  
23 correct?

24 A Correct.

25 Q What did you say to him when

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 you spoke to him?

3 MR. GOSLING: Objection.

4 You could answer.

5 A I can't recall exactly what  
6 the exact dialogue was, but I  
7 know, after my dialogue with him  
8 that, eventually, we did place  
9 him under arrest.

10 BY MR. LORD:

11 Q Was the door open when you  
12 spoke with him?

13 A I'm sorry?

14 Q Was the door open?

15 MR. GOSLING: Objection.

16 Are you referring to the car,  
17 or?

18 BY MR. LORD:

19 Q Was the car door open when  
20 you spoke with him?

21 MR. GOSLING: When you say  
22 "him" -- counselor, I'm sorry,  
23 but when you say "him," can you  
24 just specify who you're  
25 referring to?

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3                   Q                 Was the car door open when  
4    you spoke with Garfield Anthony  
5    Williams?

6                   A                 I can't recall if it was  
7    opened.

8                   Q                 Was the window down when you  
9    spoke with Garfield Anthony  
10   Williams?

11                  A                 Yeah, I believe it was.

12                  Q                 How long was this  
13    conversation with him?

14                  A                 Approximately, a few  
15    minutes.

16                  Q                 What was the content of the  
17    conversation?

18                  A                 I can't recall exactly what  
19    I said to him, but it was  
20    probably along the lines of what  
21    happened in regards to the  
22    incident.

23                  Q                 Do you remember what he said  
24    back to you?

25                  A                 No, I don't.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Now, did you talk to another  
3 individual who was involved in  
4 the accident when you arrived on  
5 the scene?

6 A Yes.

7 Q Do you know the name of that  
8 individual?

9 A No, I can't recall his name.

10 Q Can you identify any  
11 features, characteristics or race  
12 of him?

13 A Yeah, I think he was a  
14 Hispanic male. The vehicle was a  
15 Jeep, I believe, he was driving.

16 Q What was the content of the  
17 conversation you had with that  
18 individual?

19 A I asked him what happened to  
20 get his side of the story.

21 Q What did he say?

22 A He said that the person, Mr.  
23 Garfield, that I spoke to before,  
24 that he saw him stumbling when he  
25 got out and he appeared to be

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 messed up.

3 Q What do you mean, "messed  
4 up"?

5 A That's what he said, so I  
6 mean, those are his words.

7 Q Did you ask any follow-up  
8 questions about what he meant by  
9 "messed up"?

10 A I can't recall if I did.

11 Q When you spoke with this  
12 individual, was Officer Hernandez  
13 present?

14 A No, he wasn't.

15 Q Was Officer Hernandez  
16 present when you spoke with  
17 Garfield Anthony Williams?

18 A Yes.

19 Q Are you aware if Officer  
20 Hernandez spoke with the  
21 individual who was not Garfield  
22 Anthony Williams at some point  
23 during -- prior to the arrest?

24 MR. GOSLING: Objection.  
25 You could answer if you know.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A No, I'm not 100 percent sure  
3 if he did or did not speak to  
4 him.

5 BY MR. LORD:

6 Q Obviously, you're not a  
7 hundred percent sure.

8 Do you have any degree of  
9 certainty of whether or not he  
10 did?

11 MR. GOSLING: Objection.

12 You could answer.

13 A No.

14 BY MR. LORD:

15 Q So at any point did you  
16 observe Garfield Anthony Williams  
17 outside of the car?

18 A Just what I told you before,  
19 when he was in the back of the  
20 vehicle, that other vehicle.

21 Q Is it fair to say that you  
22 arrested him from the back of the  
23 vehicle and he never left the car  
24 while you were on the scene?

25 MR. GOSLING: Objection.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 You could answer.

3 A Yeah, I believe I asked him  
4 to step out of the vehicle and he  
5 did, and he was handcuffed,  
6 placed under arrest.

7 BY MR. LORD:

8 Q So at the time you placed  
9 handcuffs on him, he was under  
10 arrest; is that correct?

11 A Yes, based off my  
12 observations that I made of  
13 impairment.

14 Q What observation did you  
15 make?

16 A He had an odor of alcohol on  
17 his breath, he had a little  
18 slurred speech, and his eyes were  
19 bloodshot, watery.

20 Q Did Garfield Anthony  
21 Williams have a lawyer present  
22 when you spoke with him?

23 MR. GOSLING: Objection.

24 You could answer.

25 A He did have somebody that

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 came up to us that, I believe,  
3 was stating he was an attorney.

4 BY MR. LORD:

5 Q Were you able to at some  
6 point verify whether or not he  
7 was an attorney?

8 A I can't recall if he showed  
9 us any type of ID or credentials.

10 Q If he was an attorney, would  
11 you have been allowed to talk to  
12 Garfield Anthony Williams  
13 directly?

14 MR. GOSLING: Objection.  
15 You could answer.

16 A No.

17 BY MR. LORD:

18 Q So your understanding was  
19 that this individual was not an  
20 attorney?

21 A At that time it wasn't -- it  
22 wasn't proved, I believe, that he  
23 was an attorney for him.

24 Q So when you say "prove," how  
25 does one prove that they're an

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 attorney?

3 MR. GOSLING: Objection.  
4 You could answer.

5 A Like I said, he was more  
6 verbally saying, I believe, that  
7 he was with him and he was -- I  
8 think he said he was an attorney.

9 I can't recall exactly his  
10 wording or anything like that.

11 I know at some point, when  
12 we did place Mr. Garfield under  
13 arrest, EMS wanted to check on  
14 him for any possible injuries  
15 from the accident, so he went in  
16 the back of the ambulance.

17 So I didn't have any type of  
18 dialogue with the attorney, so he  
19 says, and Mr. Garfield together  
20 at any point.

21 BY MR. LORD:

22 Q So were you ever told that  
23 this person, who represented to  
24 be an attorney, represented  
25 Garfield Anthony Williams?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 I can rephrase that if you  
3 want.

4 A Sure. Yeah, if you could.

5 Q So I will just do two steps.

6 So you said it was an individual  
7 who was at the scene who said he  
8 was an attorney, correct?

9 A Yes.

10 Q Did this individual say he  
11 was an attorney; tell you that he  
12 represented Garfield Anthony  
13 Williams?

14 A I can't recall on scene if  
15 he did, but when we got to the  
16 hospital, I know he did.

17 Q If he represented Garfield  
18 Anthony Williams, would you have  
19 been allowed to talk to Garfield  
20 Anthony Williams directly?

21 A No.

22 Q Did you at any point attempt  
23 to ascertain whether or not he  
24 represented Garfield Anthony  
25 Williams?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Not on scene, no. The  
3 biggest thing was to get Mr.  
4 Garfield to the hospital to treat  
5 for any possible injuries since  
6 they cleared up the highway so  
7 traffic could continue to move,  
8 because there were a lot of lanes  
9 that were blocked with regards to  
10 the accident.

11 Q Just to be clear that you  
12 placed Garfield Anthony Williams  
13 under arrest prior to him getting  
14 treatment, correct?

15 A Yes, he was handcuffed  
16 before entering the ambulance.

17 Q Are you aware if any other  
18 officer was informed that  
19 Garfield Anthony Williams was  
20 represented by Counsel?

21 MR. GOSLING: Objection.

22 You could answer.

23 A I can't recall if any  
24 officer besides Officer Hernandez  
25 who, obviously, was my partner.

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3                   Q                 So you never saw Garfield  
4                                     Anthony Williams outside of the  
5                                     vehicle prior to arresting him,  
6                                     correct?

7                   A                 Correct.

8                   Q                 So you never saw whether he  
9                                     was swaying?

10                  A                 You said, "swaying"?

11                  Q                 Yes.

12                  A                 When? Yeah, so like I was  
13                                     saying, when we got to the scene,  
14                                     he was sitting down in the back  
15                                     of the vehicle, and so there was  
16                                     no -- he wasn't standing up at  
17                                     that point, as far as the swaying  
18                                     goes.

19                  Q                 So how would you describe  
20                                     the odor of alcohol; was it  
21                                     faint, moderate, or strong, or  
22                                     something else?

23                  A                 It was moderate.

24                  Q                 What did the alcohol smell  
25                                     like?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: Objection.

3 You could answer.

4 A Smelled like -- like  
5 alcohol.

6 BY MR. LORD:

7 Q Did the alcohol smell like a  
8 specific drink that he had taken  
9 such as beer or wine or Vodka?

10 A No, I wouldn't be able to  
11 pinpoint that.

12 Q So you said he had  
13 bloodshot, watery eyes?

14 A Yeah, and slurred speech.

15 Q Were you aware that the air  
16 bag had been deployed in the car  
17 accident for his vehicle?

18 A In both vehicles, or which  
19 vehicle are you talking about?

20 Q Well, at least one of the  
21 vehicles had the air bag  
22 deployed, correct?

23 A I can't recall if there was  
24 one or not. I wouldn't be able  
25 to recall that.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q But according to you, his  
3 speech was slurred?

4 A Yes, based off my  
5 observation.

6 Q What did he say,  
7 specifically, that was slurred?

8 A I can't recall exact wording  
9 that he gave me.

10 Q Can you recall in the manner  
11 it was slurred and describe how  
12 he was slurring his words?

13 MR. GOSLING: Objection.  
14 You could answer.

15 A Yeah, he has some sort of,  
16 like, mumbling speech.

17 BY MR. LORD:

18 Q So was he mumbling or was he  
19 slurring his speech?

20 A It was slurred speech.

21 Q In your opinion, is there a  
22 difference between mumbling and  
23 slurring your speech?

24 MR. GOSLING: Objection.  
25 You could answer.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A A difference?

3 BY MR. LORD:

4 Q Yeah.

5 A To me, not -- to me, I take  
6 it as the same thing.

7 Q So if someone is mumbling to  
8 you, that means that they're  
9 slurring their speech?

10 A Yes.

11 Q So in this instance,  
12 Garfield Anthony Williams was  
13 mumbling?

14 A Yes, slurred speech.

15 Q So my question was: When  
16 you say, "slurred speech," you  
17 mean "slurred speech," because he  
18 was mumbling?

19 MR. GOSLING: Objection.

20 You could answer.

21 A That would have been one of  
22 the -- yeah, that would have been  
23 one of my observations that I  
24 took from him, yes.

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3                   Q                 So in regards solely to  
4                                      speech, was he doing anything  
5                                      else besides mumbling?

6                   A                 I can't recall.

7                   Q                 You said he had bloodshot,  
8                                      watery eyes?

9                   A                 Yes.

10                  Q                 I want to just talk to you a  
11                                      little bit about his condition,  
12                                      his physical condition.

13                  When you observed him, was  
14                                      the color of his face normal, was  
15                                      it flushed, or was it pale, or  
16                                      something else?

17                  A                 I can't recall what his face  
18                                      appearance looked like at that  
19                                      time.

20                  Q                 How about his clothes, were  
21                                      they orderly, were they soiled,  
22                                      were they disarranged, were they  
23                                      disorderly?

24                  A                 I can't recall what his  
25                                      dress attire looked like.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q What about his attitude; was  
3 he talkative, combative,  
4 cooperative, or uncooperative?

5 A I'd say, for the most part,  
6 he was cooperative. He didn't  
7 give too much of a hard time.

8 Q Did he curse, did he vomit,  
9 did he hiccup, was he fighting,  
10 anything along those lines?

11 MR. GOSLING: Objection.

12 You could answer.

13 A No, not that I could recall.

14 BY MR. LORD:

15 Q You said his speech was  
16 slurred; it was slurred, it  
17 wasn't clear?

18 A Correct, it wasn't clear.

19 Q Prior to arresting Garfield  
20 Anthony Williams, how did you  
21 know that he was the person  
22 driving the car in the car  
23 accident?

24 A By the other guy, the other  
25 person that he had gotten into

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 the vehicle accident with.

3 Q The other guy told you that  
4 Garfield Anthony Williams had  
5 been driving the car?

6 A Yeah, upon our investigation  
7 we found out that he was -- he  
8 was the one driving the vehicle.

9 Q You said upon your  
10 investigation.

11 What did you uncover in your  
12 investigation that made you  
13 decide that he was driving the  
14 vehicle?

15 A Based off my conversation  
16 with the other individual, the  
17 victim, that was hit in the  
18 accident.

19 Q You call him a victim. Why  
20 do you call him a victim?

21 A Well, Mr. Garfield was  
22 arrested, that for suspicion of  
23 DWI, and that guy was the one  
24 that he hit, so he would have  
25 been the complainant in the case.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Do you carry preliminary  
3 breath tests on you when you are  
4 on patrol?

5 A No.

6 Q Did you ask Officer --

7 MR. LORD: Withdrawn.

8 BY MR. LORD:

9 Q Did you ask you Garfield  
10 Anthony Williams whether he  
11 wanted to take the preliminary  
12 breath test?

13 A I can't recall if I  
14 specifically asked him to take a  
15 breath test.

16 Q Do you know if Officer  
17 Hernandez asked him whether he  
18 wanted to take a breath test?

19 A I wouldn't know if he asked  
20 him or not.

21 Q Officer Hernandez was  
22 present when you were talking to  
23 Garfield Anthony Williams,  
24 correct?

25 A Yes.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q So if Officer Hernandez had  
3 said something while you were  
4 present, you would have heard it?

5 A Yeah, if he was next to me.

6 MR. GOSLING: Objection.

7 You could answer.

8 BY MR. LORD:

9 Q Did he ask for a preliminary  
10 breath test while he was next to  
11 you and you were talking to  
12 Garfield Anthony Williams?

13 MR. GOSLING: Objection.

14 You can answer.

15 A Yeah, I can't -- I don't  
16 believe he said that,  
17 specifically.

18 BY MR. LORD:

19 Q Did you ask Garfield Anthony  
20 Williams to do any coordination  
21 tests?

22 A Not on scene, no.

23 Q Why not?

24 A I'm not trained to do that,  
25 and he was taken from the

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 incident to the scene to the  
3 hospital where we call for  
4 highway to conduct testing for  
5 him.

6 Q Is Officer Hernandez trained  
7 to do that?

8 A I'm sorry?

9 MR. GOSLING: Objection.  
10 Objection. You could answer.

11 A Can you repeat that?

12 BY MR. LORD:

13 Q Is Officer Hernandez trained  
14 to do coordination tests?

15 MR. GOSLING: Objection.  
16 I'm going to say not to answer  
17 this.

18 He has no basis for  
19 knowing what training Officer  
20 Hernandez has had.

21 MR. LORD: They're  
22 partners. If I phrase the  
23 question as, were you ever told  
24 by Officer Hernandez whether he  
25 had training, that's

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 acceptable.

3 MR. GOSLING: You're  
4 asking him to explain training  
5 that Officer Hernandez had, but  
6 you're going to have a  
7 deposition of Officer Hernandez  
8 and you can ask him about his  
9 training.

10 MR. LORD: I'm asking him  
11 what if Officer Hernandez ever  
12 told him or he knew the  
13 training that Officer Hernandez  
14 received.

15 MR. GOSLING: Counsel,  
16 your question is asking him to  
17 tell you what training Officer  
18 Hernandez has had.

19 MR. LORD: No, I'm asking  
20 him --

21 He doesn't know. He  
22 doesn't have personal knowledge  
23 of that, but he can testify to  
24 what he's been asked or what  
25 he's been told or informed by

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 another party. He can't say --  
3 He can't attest that it's  
4 true unless they were in the  
5 academy together, which I can  
6 ask that as well, if he was in  
7 training with him, but what he  
8 can attest to is whether he was  
9 actually ever told these things  
10 by his partner.

11 MR. GOSLING: But that's  
12 not the way that your question  
13 was formed, so I'll ask you to  
14 just rephrase the question.  
15 You know, the way that your  
16 question was asked --

17 MR. LORD: I'll rephrase  
18 it. I'll rephrase it.

19 BY MR. LORD:

20 Q So Officer Ottaviano, did  
21 Officer Hernandez ever inform you  
22 of any trainings he received at  
23 the academy?

24 A No.

25 Q So are you aware, or have

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 you ever been informed whether  
3 Officer Hernandez had  
4 coordination training?

5 A No, I'm not aware if he has  
6 or hasn't.

7 MR. LORD: Let's take a  
8 break to 12:05.

9 \* \* \* \* \*  
10 (At which time, a brief  
11 recess was held until 12:05  
12 p.m.)

13 \* \* \* \* \*

14 BY MR. LORD:

15 Q So Officer Ottaviano, prior  
16 to arresting Garfield Anthony  
17 Williams, did you have any  
18 conversations with Officer  
19 Hernandez?

20 A Not that I recall, no.

21 Q So, specifically, any  
22 conversations about whether  
23 Garfield Anthony Williams was  
24 intoxicated, or whether or not  
25 you guys should or should not

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 arrest him?

3 A No, we had a mutual  
4 understanding that he was being  
5 placed under arrest, based off of  
6 what we observed.

7 Q That mutual understanding  
8 was spoken or you just kind of  
9 knew?

10 A A little bit of both.

11 Q So was there ever a point  
12 where you formally said, We're  
13 going to place this guy under  
14 arrest, to each other?

15 A I can't recall if I  
16 specifically told him that before  
17 placing him under arrest.

18 Q But it's safe to say that  
19 you guys were on one accord when  
20 it came to the arrest; is that  
21 your understanding?

22 A We were on the same page,  
23 yeah.

24 Q So after the arrest, what do  
25 you do at that point?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yeah, so once he was  
3 arrested, as I said before, he  
4 was brought to the back of the  
5 ambulance to be checked out by  
6 EMS. And my partner stayed with  
7 him, I believe, in the back of  
8 the ambulance, and I went to get  
9 some more information from the  
10 other individual that was  
11 involved in the accident to get  
12 his name and his side of things.

13 Q So you say, "his side of  
14 things," his version --

15 A Of the accident, yeah.

16 Q So prior to arresting  
17 Garfield Anthony Williams, you  
18 had not gotten this other  
19 individual's version of the  
20 accident events?

21 A No.

22 Q Did you ever get Garfield  
23 Anthony Williams' version of the  
24 accident?

25 A Yes.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q When did you get that?

3 A You said "when"?

4 Q Um-hum.

5 A That would have been that  
6 night.

7 Q Is that prior to arresting  
8 him or after?

9 A It was most likely, probably  
10 after he was placed under arrest.

11 Q You said, "It was most  
12 likely." Does that mean you're  
13 not sure?

14 A Yeah, I am not 100 sure if  
15 it was prior to it or not.

16 Q It's a possibility that this  
17 could have happened prior?

18 MR. GOSLING: Objection.

19 You could answer.

20 A That he told us his version  
21 of the accident?

22 BY MR. LORD:

23 Q Yes.

24 A Yeah. Yes.

25 Q Okay. So you said that Mr.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Williams was in the EMS ambulance  
3 when you went to talk to the  
4 other individual?

5 A Yes.

6 Q How long was that  
7 conversation?

8 MR. GOSLING: Objection.

9 You can answer.

10 A It was approximately, five  
11 -- five to six minutes.

12 BY MR. LORD:

13 Q What was the content of that  
14 conversation? Just summarize.

15 MR. GOSLING: Objection.

16 You can answer.

17 A Yeah, I asked him in regards  
18 to the accident like what  
19 happened.

20 He said got rear-ended and  
21 he had damage on the back of his  
22 vehicle.

23 And also that when he saw  
24 Mr. Garfield exit his vehicle, he  
25 was stumbling and that he was

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 messed up.

3 BY MR. LORD:

4 Q Did you ask him what he  
5 meant by "messed up"?

6 A I can't recall if I asked  
7 him more about that statement.

8 Q Was there anything else that  
9 was discussed at that time?

10 A Not that I could recall.

11 Q Did you ask him whether Mr.  
12 Williams was intoxicated?

13 A I'm sorry?

14 Q Did you ask him whether Mr.  
15 Williams was intoxicated?

16 A I can't recall if I  
17 specifically asked him if he was  
18 intoxicated.

19 Q Did he say that he thought  
20 Mr. Williams was intoxicated to  
21 you?

22 A I'm not sure, specifically,  
23 if that's what he said, but based  
24 off his statements of him  
25 stumbling around and him

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 appearing to be messed up when he  
3 got out of the car -- that's the  
4 only thing that I recall that he  
5 said to me.

6 Q So you -- is it fair to say  
7 that you interpreted his comments  
8 that Mr. Williams was messed up  
9 and stumbled out of the car as an  
10 issue of intoxication?

11 A Yes, it's definitely a sign  
12 of impairment.

13 Q Did you --

14 MR. LORD: Withdrawn.

15 BY MR. LORD:

16 Q At this point, Mr. Williams  
17 had already been placed under  
18 arrest, correct?

19 A Yes.

20 Q So what happened after the  
21 conversation with that  
22 individual?

23 MR. GOSLING: Objection.

24 You can answer. Who are you  
25 talking about?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. LORD: He doesn't know  
3 his name, the Hispanic  
4 individual in the car,  
5 Mr. Jimenez.

6 MR. GOSLING: Can you just  
7 rephrase the question?

8 MR. LORD: Okay.

9 BY MR. LORD:

10 Q What did you do after you  
11 had the conversation with the  
12 Hispanic man who was involved in  
13 the car accident?

14 A Yeah, I went and got his ID,  
15 HIS information for his vehicle  
16 due to the vehicle accident, so  
17 we had it for the accident  
18 report. So that's all the  
19 information I would have gotten  
20 from him.

21 Q And then what after that?

22 A After that, he was free to  
23 go. I don't know where he went  
24 after that, but he was free to  
25 go.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q What did you do after you  
3 were done talking with him?

4 A Yeah, I went back to the  
5 ambulance, and Officer Hernandez,  
6 I believe, stayed in the  
7 ambulance with the individual and  
8 they transported them to the  
9 hospital and I followed the  
10 ambulance with my patrol vehicle.

11 Q How far away was the  
12 ambulance from the scene of the  
13 accident --

14 MR. LORD: Withdrawn.

15 BY MR. LORD:

16 Q How far away was the  
17 hospital from the scene of the  
18 accident?

19 A I'm not too sure how far it  
20 was.

21 Q So do you remember how long  
22 it took you to drive there?

23 A I can't recall exactly how  
24 long it was. It wasn't a long  
25 ride. It wasn't a long ride.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q So if it wasn't a long ride,  
3 is it fair to say --

4 A I said, "it wasn't."

5 Q So was it under a half-hour?

6 A Yes.

7 Q Do you remember if it was  
8 like under 20 minutes?

9 A Yes.

10 Q What happened when you  
11 arrived at the hospital?

12 MR. GOSLING: Objection.

13 You could answer.

14 A He would have been seen by  
15 medical professionals.

16 BY MR. LORD:

17 Q Now, you say, "He would have  
18 been seen." Do you have an  
19 independent recollection of what  
20 happened?

21 A Yeah, he was seen by medical  
22 professionals at the hospital.

23 Q Let's take this step by  
24 step.

25 What part of the hospital

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 did you arrive at, what area?

3 A The emergency. Emergency  
4 room.

5 Q What happened when you  
6 arrived at the emergency room  
7 immediately after arriving?

8 MR. GOSLING: Objection.

9 You can answer.

10 A Just waiting, waiting to be  
11 seen, waiting for him to be seen  
12 by doctors or nurses.

13 BY MR. LORD:

14 Q Were you with Mr. Williams  
15 while you were waiting to be  
16 seen?

17 MR. GOSLING: Objection.

18 Counsel, you mean while he  
19 was --

20 MR. LORD: Yes.

21 MR. GOSLING: -- waiting  
22 to be seen.

23 BY MR. LORD:

24 Q Were you with Mr. Williams  
25 while he was waiting to be seen?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yes.

3 Q Was Officer Hernandez with  
4 you during this time?

5 A Yes.

6 Q Were there any conversations  
7 between you and Mr. Williams  
8 while you were waiting to be seen  
9 -- when he was waiting to be  
10 seen?

11 A No, I can't recall any  
12 specific conversations.

13 Q Do you recall if Officer  
14 Hernandez had any conversations  
15 with Mr. Williams?

16 A No.

17 Q How long were you waiting  
18 for Mr. Williams to be seen?

19 A I can't recall the lapse of  
20 time.

21 Q Was it a long time, short  
22 amount of time, not too long; do  
23 you have any sense?

24 A I honestly don't know. I  
25 mean, it was a long time ago and

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 I don't know. I can't recall how  
3 busy they were at the time or how  
4 many patients they had, but he  
5 was seen in a reasonable amount  
6 of time.

7 Q So based on your experience,  
8 it wasn't unduly long, compared  
9 to how long you had been waiting  
10 in the past?

11 A Correct.

12 Q What happened when he was  
13 seen by a medical professional?

14 MR. GOSLING: Objection.

15 You can answer.

16 A I think they were just  
17 checking out his -- his  
18 complaints of whatever he was  
19 complaining about in regards to  
20 the accident.

21 BY MR. LORD:

22 Q Do you know what he  
23 complained about?

24 A No, I don't.

25 Q Was he checked out by a

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 nurse or a doctor, if you  
3 remember?

4 A I can't recall which one.

5 Q Were you able to hear  
6 anything he was saying to the  
7 doctor or nurse?

8 MR. GOSLING: Objection.

9 You could answer.

10 A No, I can't remember  
11 anything he said to any medical  
12 professionals.

13 BY MR. LORD:

14 Q You were able to hear, you  
15 just can't remember; is that fair  
16 to say?

17 A I would have heard it, yeah,  
18 but due to the lapse of time, I  
19 can't recall, specifically, what  
20 was said.

21 Q And Mr. Williams was in  
22 handcuffs this entire time; is  
23 that correct?

24 A Yeah, he would have been  
25 handcuffed to the bed, to the

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 hospital bed.

3 Q So do you remember how long  
4 he was checked out by the medical  
5 professional?

6 MR. GOSLING: Objection.

7 You can answer.

8 A No, I can't remember how  
9 long -- how long it took.

10 BY MR. LORD:

11 Q What happened after he was  
12 done being examined?

13 MR. GOSLING: Objection.

14 You can answer.

15 A Yeah, I know we requested  
16 highway to the hospital to do  
17 testing in regards to his arrest.

18 BY MR. LORD:

19 Q You made that request after  
20 he was examined by the medical  
21 professional?

22 A No, I requested it before.  
23 Before that.

24 Q Do you know how long before  
25 that?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A It most likely would have  
3 been on the -- when we were on  
4 the way to the hospital.

5 Q You said, "most likely."

6 Does that mean you're not  
7 entirely sure?

8 A Yeah, I'm not sure exactly  
9 what time. I know before  
10 arriving to the hospital, I  
11 already -- I requested --  
12 requested highway to the  
13 hospital.

14 Q Did you tell any of the  
15 medical professionals what he was  
16 arrested for?

17 A I can't recall if I did --  
18 if we did or not.

19 Q Officer Hernandez was with  
20 you that entire time, correct?

21 A Yes, he was.

22 Q So you don't remember if  
23 Officer Hernandez informed the  
24 medical professionals either?

25 A Yeah, I don't know.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q So what happened when the  
3 I.D.T.U. Technician arrived?

4 A I know that no testing was  
5 done based off of refusal.

6 Q So you say, "refusal." Who  
7 refused?

8 A Mr. Garfield.

9 Q Mr. Williams?

10 A Williams, sorry. Mr.  
11 Williams.

12 Q How did he refuse?

13 A Verbally.

14 Q So he was asked verbally  
15 whether he would take the test  
16 and he said, "no"?

17 A Yes.

18 Q Was anybody else present  
19 when this took place?

20 A I believe the -- the  
21 individual claiming to be his  
22 attorney, I think he showed up.  
23 He was advising him, I believe to  
24 not -- to not do any testing.

25 Q So this individual was

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 telling Mr. Williams that he  
3 should not do the test, that you  
4 heard him say that?

5 A Yes.

6 Q And Mr. Williams told you he  
7 was not going to do that test,  
8 correct?

9 A He told highway. He was  
10 asking him questions. Yeah, he  
11 told hem.

12 Q Were there any other  
13 questions that were asked by the  
14 highway technician?

15 A Yeah, I can't recall any  
16 specific questions that were  
17 asked by them.

18 Q Do you recall if any of  
19 these questions were answered?

20 A No.

21 Q So at that point after he  
22 refused, in your opinion, do you  
23 still have probable cause to  
24 arrest him for driving while  
25 intoxicated?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yes.

3 Q Why was that?

4 A Based on our observations on  
5 scene.

6 Q Did you talk to the I.D.T.U.  
7 technician about whether the  
8 technician thought that Mr.  
9 Williams was intoxicated?

10 A I can't recall if I did.

11 Q Are you aware of the  
12 I.D.T.U. Technician's opinion of  
13 whether Mr. Williams was  
14 intoxicated?

15 MR. GOSLING: Objection.

16 You can answer.

17 A No, I can't recall his  
18 opinion.

19 BY MR. LORD:

20 Q Did you use the refusal as  
21 consciousness of guilt for the  
22 crime that you allege he  
23 committed?

24 MR. GOSLING: Objection.

25 You could answer.

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2                   A                  No.

3 BY MR. LORD:

4                   Q                  So did the refusal take any  
5                                      role or part in the arrest?

6                                      MR. GOSLING: Objection.

7                                      You can answer.

8                   A                  No, the refusal alone -- he  
9                                      was already arrested before he  
10                                     refused the testing.

11 BY MR. LORD:

12                   Q                  Were you ever informed that  
13                                      a refusal can be used as a basis  
14                                      for an arrest?

15                                      MR. GOSLING: Objection.

16                                      You can answer.

17                   A                  Yeah, I believe it would be  
18                                      another charge, I believe, added.

19 BY MR. LORD:

20                   Q                  So did you add that charge  
21                                      in this instance?

22                   A                  No, I can't recall if  
23                                      additional charges were added.

24                   Q                  Were you ever informed that  
25                                      the refusal took place more than

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 two hours after his arrest?

3 MR. GOSLING: Objection.

4 You could answer.

5 A I'm sorry. Say that again.

6 BY MR. LORD:

7 Q Were you ever informed that  
8 the refusal took place more than  
9 two hours after his arrest?

10 MR. GOSLING: Objection.

11 You could answer.

12 A No, I can't recall the time  
13 -- the timeframe.

14 BY MR. LORD:

15 Q So my question is: Did  
16 anyone tell you that the request  
17 for refusal was more than two  
18 hours after he was arrested?

19 MR. GOSLING: Objection.

20 You can answer.

21 A No, I can't remember that.

22 BY MR. LORD:

23 Q Were you ever trained on the  
24 impact of asking for a  
25 Breathalyzer test more than two

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 hours after an arrest?

3 A I -- I can't recall if I did  
4 training on that, no.

5 Q As you understand it now, is  
6 a person allowed to refuse a  
7 Breathalyzer test if it has been  
8 more than two hours?

9 MR. GOSLING: Objection.

10 You can answer.

11 A Yes.

12 BY MR. LORD:

13 Q When Mr. Williams refused  
14 his Breathalyzer test, had it  
15 been more than two hours after he  
16 had been arrested?

17 MR. GOSLING: Objection.

18 Objection. You could answer.

19 A I can't recall if it was  
20 more than two hours. If it was,  
21 it was, but I can't recall  
22 exactly how long it was.

23 BY MR. LORD:

24 Q So you said that, after he  
25 refused the test, you believe

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 that you still had probable cause  
3 to arrest him for driving while  
4 intoxicated?

5 A Yes.

6 Q When you were forming that  
7 basis to arrest him for driving  
8 while intoxicated, you did not  
9 include his refusal as part of  
10 the factors you considered?

11 A You're asking me if --  
12 because there was not another  
13 charge added to that, is that  
14 what you're saying?

15 Q I'm asking you whether his  
16 refusal to take a chemical test  
17 was a factor in determining  
18 whether you had probable cause to  
19 arrest him?

20 A No, we had probable cause to  
21 arrest him before -- before he  
22 got to the hospital.

23 Q I understand what you're  
24 saying.

25 My question is whether the

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 refusal was a factor in whether  
3 you had probable cause to arrest  
4 him.

5 Did you add that in to the  
6 determination, based on what  
7 happened?

8 MR. GOSLING: Objection.

9 You can answer.

10 A No.

11 BY MR. LORD:

12 Q So your basis for arresting  
13 Mr. Williams was based solely on  
14 what you observed and saw when  
15 you arrested him on the scene?

16 A Yes, and what the -- the  
17 complainant had mentioned before.

18 Q So what impact did the  
19 complainant's statements have on  
20 whether you thought there was  
21 probable cause to arrest Mr.  
22 Williams?

23 A Based off his statements, it  
24 lined up to what we had observed  
25 as far as the signs that I had

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 mentioned before. Like the odor  
3 of alcohol on his breath, slurred  
4 speech, his eyes bloodshot and  
5 watery.

6 Q So you said earlier that you  
7 spoke to the Hispanic individual  
8 after Mr. Williams was placed  
9 under arrest, correct?

10 A Yes.

11 Q So the statements that you  
12 learned about his condition at  
13 the accident was after he had  
14 already been arrested?

15 A Yes.

16 Q And you used those  
17 statements as a basis to continue  
18 to believe that you had probable  
19 cause to arrest Mr. Williams?

20 A What do you mean by "used"?

21 Q Well, I asked you this --  
22 how do you -- in your opinion,  
23 how do you make a determination  
24 whether someone is driving while  
25 intoxicated or not?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 What factors do you use?

3 A The ones I stated. Alcohol,  
4 yeah.

5 Q Would you agree that not all  
6 of those factors are necessarily  
7 respondent in terms of whether he  
8 was intoxicated?

9 MR. GOSLING: Objection.

10 You could answer.

11 A Like --

12 BY MR. LORD:

13 Q I will rephrase.

14 None of the factors in and  
15 of itself were suggesting he was  
16 intoxicated, right?

17 For example, bloodshot red,  
18 watery eyes. If that's all he  
19 had, he would not be intoxicated.

20 Would you agree with that  
21 statement or no?

22 A I would agree that it was  
23 accumulative of things.

24 Q Can you just describe what  
25 cumulative things that you base

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 your determination was probable  
3 cause on?

4 A Yeah, the moderate smell of  
5 alcohol that was coming off his  
6 breath, the slurred speech, and  
7 his watery eyes and bloodshot  
8 eyes, and the fact that he was  
9 involved in a vehicle accident.

10 Q Why did the fact he was  
11 involved in a vehicle accident  
12 play a factor in whether you  
13 thought he was intoxicated?

14 A Well, having those signs of  
15 impairment and then an accident  
16 that occurred, you know, based  
17 off -- I've had prior arrests  
18 where there was accidents  
19 involved with drinking and  
20 driving, and that's something  
21 that should be looked at.

22 Q At any point did you ask any  
23 medical professional whether they  
24 thought he was intoxicated?

25 A I don't recall if I asked

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 any medical professional. You  
3 mean like at the hospital, no.  
4 Q At the hospital or either  
5 EMS?  
6 A No, I can't recall.  
7 Q So I want to direct your  
8 attention to the time when he has  
9 just refused this chemical test.  
10 What happens after that?  
11 A After he refuses?  
12 Q Yes.  
13 A We would have waited until  
14 he got discharged from the  
15 hospital.  
16 Q Do you remember how long  
17 that took?  
18 A Not too much longer, I  
19 believe, after -- after that  
20 refusal.  
21 Q So what happened after that,  
22 after he was discharged?  
23 A He would have been brought  
24 back to the precinct for arrest  
25 processing.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Were you present when he was  
3 brought back to the precinct for  
4 arrest processing?

5 A Yes, I would have been back  
6 at the precinct when he was, too.

7 Q Were you involved in the  
8 arrest processing for Mr.  
9 Williams?

10 A Yes.

11 Q So what did you do for the  
12 arrest process?

13 A I believe I did the arrest  
14 report.

15 Q Did you do anything else?

16 A Not that I recall.

17 Q Were you listed as the  
18 arresting officer?

19 A No, I'm not the arresting  
20 officer.

21 Q Is there a reason why you  
22 were not listed as the arresting  
23 officer?

24 A My partner took the arrest,  
25 so I wouldn't be the arresting

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 officer.

3 Q When it comes to "arresting  
4 officer," is that a title?

5 You guys decide who -- who  
6 would get the title?

7 A Sorry. Say that question  
8 again.

9 Q Is "arresting officer" a  
10 title, or is it a designation for  
11 the person who actually made the  
12 arrest?

13 A Yeah, the person -- the -- I  
14 mean, just because you put  
15 handcuffs on -- someone puts  
16 handcuffs on somebody else, that  
17 doesn't mean that has to be that  
18 person's arrest. Someone else  
19 could take the arrest, if that  
20 answers your question.

21 Q Yes, it does.

22 In this instance, did you or  
23 Officer Hernandez put handcuffs  
24 on Mr. Williams?

25 A I believe it was me who put

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 handcuffs.

3 Q How long did it take to  
4 process Mr. Williams' paperwork?

5 A I can't recall how long it  
6 takes.

7 Q Do you remember when your  
8 shift was over?

9 MR. GOSLING: Objection.

10 You can answer.

11 A Yes, 7:50 a.m. is my end of  
12 tour time.

13 BY MR. LORD:

14 Q Did you work overtime on  
15 that day?

16 A I can't recall. I don't  
17 think I stayed overtime.

18 Q Would your memo book entry  
19 have information whether you  
20 stayed overtime or not?

21 A Yes.

22 Q So do you remember if you  
23 left at 7:50 or you stayed past  
24 7:50?

25 MR. GOSLING: Objection.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 You can answer.

3 A I can't recall if I stayed  
4 past 7:50 or not.

5 BY MR. LORD:

6 Q At any point, did you talk  
7 to the District Attorney's office  
8 about the arrest?

9 A No.

10 Q Were you present when  
11 Officer Hernandez spoke with the  
12 District Attorney's office about  
13 the arrest?

14 A No.

15 Q Did you have any involvement  
16 with the District Attorney's  
17 office regarding the arrest?

18 A No.

19 Q When you left work for the  
20 day, was Mr. Williams still in  
21 custody?

22 A Yes.

23 Q Are you aware of,  
24 ultimately, what happened to Mr.  
25 Williams in regards to whether he

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 stayed in custody or was  
3 released?

4 MR. GOSLING: Objection.

5 You can answer.

6 A No, I don't recall.

7 BY MR. LORD:

8 Q Do you know if Mr. Williams  
9 was ultimately charged with a  
10 crime?

11 MR. GOSLING: Objection.

12 You can answer.

13 A No.

14 BY MR. LORD:

15 Q Did you have any  
16 conversations with your partner  
17 afterwards, regarding what  
18 happened to Mr. Williams?

19 A Yes, at some point, he had  
20 told me the case, I think, got --  
21 I think it was declined to  
22 prosecute.

23 Q Did he say why the case got  
24 declined to prosecute?

25 A I can't recall if he said

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2                   exactly why or not.

3                   Q               What do you think of the  
4                                  decision to decline to prosecute  
5                                  the case?

6                                  MR. GOSLING: Objection.  
7                                  You can answer.

8                   A               It's not really my opinion  
9                                  on whether a case gets prosecuted  
10                                 or not. That's not my -- that's  
11                                 not my job.

12                   BY MR. LORD:

13                   Q               I understand.  
14                                  So you don't have an opinion  
15                                 on it?

16                   A               No, I just do what my  
17                                 responsibilities as a police  
18                                 officer is. What happens after  
19                                 that is not up to me.

20                   Q               If a District Attorney  
21                                 declines to prosecute a case, do  
22                                 you evaluate whether you made the  
23                                 right decision in arresting that  
24                                 individual?

25                   A               No, because I know if I

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 effected an arrest, I had  
3 probable cause to do it.

4 Q So knowing now that Mr --  
5 that the District Attorney  
6 declined to prosecute Mr.  
7 Williams, do you still think his  
8 arrest was justified, based on  
9 probable cause --

10 A Yes.

11 MR. LORD: One brief  
12 moment. Okay. So I'm just  
13 going to share screen. One  
14 second.

15 (At which time, counsel  
16 screen shared the document  
17 with the witness and all  
18 parties.)

19 MR. LORD: I'm looking at  
20 the arrest report labeled  
21 Defendants' Exhibit 16 through  
22 18.

23 MR. GOSLING: Counsel, are  
24 you going to be entering that  
25 as an exhibit?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. LORD: Yes, I'm  
3 entering it as an exhibit. I  
4 am informing you. Actually --  
5 One second. I'm sorry.

6 (At which time, there  
7 was a brief pause in the  
8 proceedings.)

9 MR. GOSLING: What are you  
10 going to have it marked as?

11 MR. LORD: It's Exhibit 1.  
12 So this is Bates Number 16 to  
13 19. I'm going to attempt to  
14 share my screen.

15 (At which time, counsel  
16 screen shared the exhibit  
17 with the witness and all  
18 parties.)

19 BY MR. LORD:

20 Q Can you see this document?

21 A Yeah.

22 Q Okay.

23 MR. GOSLING: Just for  
24 completeness, can we just let  
25 him review the entire document

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 before there's any questions?

3 MR. LORD: Yeah, I was  
4 going to give him an  
5 opportunity to do that.

6 BY MR. LORD:

7 Q I'm going to scroll down.

8 (At which time, counsel  
9 scrolled through the exhibit  
10 for the witness and all  
11 parties.)

12 BY MR. LORD:

13 Q If I need to zoom in or  
14 scroll out, let me know. I can  
15 go slower or faster.

16 A Okay.

17 Q Have you had an opportunity  
18 to review this document?

19 A Yes.

20 MR. LORD: I'm going to  
21 mark it as Exhibit 1 for  
22 identification, Plaintiff's  
23 Exhibit 1.

24 \* \* \* \* \*

25 (New York City Police

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 Department Arrest Report -  
3 B19649648, Bates stamped  
4 D\_00016 to D\_00019,  
5 consisting of 4 pages was  
6 marked as Plaintiff's  
7 Exhibit 1 for identification  
8 as of this date by the Court  
9 Reporter; attached hereto.)

10 \* \* \* \* \*

11 BY MR. LORD:

12 Q Now, Officer Ottaviano, can  
13 you please let us know what this  
14 document is?

15 A Yeah, that's the -- that's  
16 what we call the arrest report.

17 Q Who filled out this  
18 document?

19 A I did.

20 Q You said the arrest date was  
21 12/15/2019?

22 A Yes, that's what I said on  
23 there.

24 Q You said the arrest happened  
25 at 2:15?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A Yeah, that would have been  
3 the arrest time.

4 Q So I'm looking right now at  
5 the details section. You said  
6 that Mr. Williams was swaying and  
7 stumbling balance, correct?

8 Did you write that?

9 A That would have been a  
10 story. So when we do the arrest  
11 report, usually, before you enter  
12 it, you know, you write it down  
13 first on paper to make sure it's  
14 -- you know, it sounds -- sounds  
15 accurate in what you want to do  
16 before you put it on the final  
17 document. So that's what we --  
18 Officer Hernandez, too, knew that  
19 that was going to be entered.  
20 And based on his understanding  
21 and observation as well, that's  
22 what happened.

23 Q So do you have a copy of the  
24 original document that was  
25 handwritten?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 A No.

3 Q You said, "no"?

4 A I said, "no."

5 Q Are the original handwritten  
6 documents preserved in any way?

7 A Are they what?

8 Q Are they preserved in any  
9 way?

10 MR. GOSLING: Objection.

11 You can answer, if you know.

12 A No.

13 BY MR. LORD:

14 Q So when you have an original  
15 handwritten version of the arrest  
16 report, what do you do with that  
17 document?

18 A When I have an original  
19 version of it?

20 Q Yeah, the handwritten  
21 version.

22 A I'm sorry. Let me be clear.  
23 I didn't have a handwritten  
24 version of this, the whole  
25 report. It was just a story, a

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 rough copy, of the story before  
3 we put it in.

4 Q You wrote that down  
5 somewhere?

6 A It would have been on a  
7 piece of just like ripped up  
8 paper.

9 Q And you no longer have that  
10 ripped up paper; is that what  
11 you're saying?

12 A No.

13 Q So this story was written in  
14 coordination with Officer  
15 Hernandez; is that fair to say?

16 A Yes.

17 Q So you say that the  
18 arresting officer observed --

19 MR. LORD: Withdrawn.

20 BY MR. LORD:

21 Q (Reading from Document)  
22 I'll read the whole  
23 sentence.

24 "At TPO A/O observed the  
25 defendant with a moderate odor of

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 alcohol coming from defendant's  
3 breath, defendant had watery  
4 bloodshot eyes, and also was  
5 swaying and stumbling."

6 Did I read that sentence  
7 correctly?

8 A Yes.

9 Q So are you saying that the  
10 arresting officer observed Mr.  
11 Williams swaying and stumbling?

12 A Yes.

13 Q Didn't you testify earlier  
14 that when you went on the scene,  
15 that Mr. Williams was in the car,  
16 correct?

17 A Yes.

18 Q And he never left the car  
19 prior to you arresting him,  
20 correct?

21 A Prior, no.

22 Q Okay. So when did you see  
23 Mr. Williams swaying and  
24 stumbling?

25 A Well, Officer Hernandez took

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 him to -- escorted him to the  
3 ambulance. I mean, that would be  
4 him -- him saying, obviously, you  
5 saw him swaying. It's in the  
6 report, so that would have been  
7 his observation.

8 Q So what you wrote is that,  
9 after he was arrested, Officer  
10 Hernandez observed him swaying  
11 and stumbling?

12 A "At TPO, A/O observed him,"  
13 so he was on scene.

14 Q So he was on the scene, but  
15 it was after the arrest; is that  
16 fair to say?

17 MR. GOSLING: Objection.

18 You can answer.

19 A Yeah, you mean like after he  
20 was in handcuffs? Is that what  
21 you're talking about?

22 BY MR. LORD:

23 Q I just want to be clear.  
24 When he is placed in  
25 handcuffs, he is under arrest,

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 right?

3 A Yes.

4 Q So these observations of him  
5 swaying and stumbling happened  
6 after he was under arrest?

7 A The -- the watery and  
8 bloodshot eyes were, obviously,  
9 prior to the arrest. That's what  
10 we observed in the vehicle. And  
11 there's moderate alcohol on his  
12 breath, yes, was prior to him  
13 being placed under arrest. The  
14 swaying part would have been  
15 observed during -- during, as he  
16 was arrested.

17 Q It would be after he was  
18 arrested because you said this  
19 occurred when he was being walked  
20 over to the ambulance, correct?

21 MR. GOSLING: Objection.

22 You can answer.

23 A If I recall properly, yes,  
24 but...

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3                   Q                 Okay. So is it fair to say  
4                                     that, while he was walking over  
5                                     to the ambulance, he was already  
6                                     under arrest?

7                   A                 He was already under arrest  
8                                     at that point.

9                   Q                 So this says -- and I'm  
10                                  reading the next sentence, "A/O  
11                                  was informed by Detective Leon  
12                                  from ESU badge number 4232 that  
13                                  he was first on the scene."

14                                     Were you present for that --  
15                                     MR. LORD: Withdrawn.

16 BY MR. LORD:

17                   Q                 Did I read that correctly?

18                   A                 Yes.

19                   Q                 And that was the entire  
20                                  sentence?

21                   A                 And that was what?

22                   Q                 That was the entire  
23                                  sentence?

24                   A                 "A/O was informed by  
25                                  Detective Leon from ESU badge

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 number 4232 that he was first on  
3 scene."

4 Q Now, were you present for  
5 that conversation?

6 MR. GOSLING: Objection.  
7 You can answer.

8 A I can't recall if -- if I  
9 was next to him during that  
10 conversation.

11 BY MR. LORD:

12 Q You're saying you can't  
13 recall?

14 A No.

15 Q Do you recall witnessing  
16 this conversation?

17 A No, I can't recall.

18 MR. GOSLING: I'm going to  
19 object.

20 I think it's a little bit  
21 of a mischaracterization as far  
22 as conversation being thrown  
23 around. That's not --

24 Just to be clear for the  
25 record, that's not --

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2                   The arrest report doesn't  
3                   say anything about a  
4                   conversation.

5                   MR. LORD: I will make the  
6                   record clear that when I use  
7                   the word "conversation," I was  
8                   referring solely to the  
9                   sentence where it says that A/O  
10                  was informed.

11                  That's what I meant by  
12                  "conversation," so that there's  
13                  no confusion of that. I did  
14                  not mean anything else.

15 BY MR. LORD:

16 Q               (Reading from Document)

17                Okay. I'm going to read the  
18                next sentence.

19                "Defendant was then taken to  
20                Jacobi Hospital emergency room  
21                for complaint of neck and back  
22                pain from the vehicle accident."

23                Did I read that sentence  
24                correctly?

25 A               Where are you?

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Q Right here.

3 A (Reading from Document)

4 Yeah, "Defendant was then  
5 taken to Jacobi Hospital  
6 emergency room for complaint of  
7 neck and back pain from the  
8 vehicle accident."

9 Q Does this sentence refresh  
10 your recollection as to what the  
11 pain Mr. Williams complained of?

12 A Yes, based off reading that  
13 sentence, his neck and back.

14 Q Do you remember any other  
15 complaints that he may have had?

16 A No.

17 Q I'm going to read the next  
18 sentence. "Defendant was  
19 medically clear with no  
20 injuries." That's the sentence.

21 Did I read that sentence  
22 correctly?

23 A Yes.

24 Q When you say he was  
25 medically cleared with no

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2                   injuries, who would make that  
3                   medical clearance?

4                   A                  That would have been the  
5                                        medical staff that treated him,  
6                                        that saw him.

7                   Q                  So the medical staff  
8                                        informed you that he had no  
9                                        injuries?

10                  A                  Yes.

11                  Q                  What do you mean by, "no  
12                                        injuries"?

13                  A                  He didn't have any. Wasn't  
14                                        aware to us. Based off him being  
15                                        discharged, he didn't have any  
16                                        broken bones, anything that would  
17                                        require him to stay at the  
18                                        hospital any longer for  
19                                        treatment.

20                  Q                  In your opinion, if you're  
21                                        discharged from the hospital,  
22                                        that means you have no  
23                                        injuries --

24                                        MR. LORD: Withdrawn.

25                  A                  No. Obviously, eventually,

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 you would get discharged from the  
3 hospital, even after an injury.

4 BY MR. LORD:

5 Q "No injuries" means, in your  
6 opinion, that he never suffer any  
7 type of injury at all?

8 MR. GOSLING: Objection.

9 You can answer.

10 A Yes.

11 BY MR. LORD:

12 Q You say you were informed of  
13 this by a medical professional?

14 A Yes.

15 Q (Reading from Document)

16 I'll read the next sentence.

17 "IDT responded to hospital for  
18 testing and refused all tests.

19 The defendant was accompanied by  
20 an attorney."

21 Did I read that sentence  
22 correctly?

23 A Yes.

24 Q So this then confirms --  
25 You mentioned earlier that

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 IDT responded to the hospital.

3 This confirms that, correct?

4 A It does.

5 Q So you say, the defendant  
6 was accompanied by an attorney.

7 Who was his attorney?

8 A I can't recall his name.

9 Q Was the individual who  
10 identified himself as an attorney  
11 the same one who was at the scene  
12 of the accident?

13 A Yes.

14 Q Is there a reason why, when  
15 he's at the hospital, you  
16 considered him an attorney, but  
17 you did not at the scene?

18 A I believe more at the  
19 hospital he was more adamant that  
20 he was an attorney and that he  
21 was there for his -- for that  
22 person.

23 Q So because he wasn't adamant  
24 to a certain extent, initially,  
25 that you disregarded him as

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 Mr. Williams' attorney?

3 MR. GOSLING: Objection.

4 You can answer.

5 A No, I wouldn't say,

6 "disregarded."

7 BY MR. LORD:

8 Q How would you describe it?

9 A At the scene we still had to  
10 conduct an investigation and  
11 we're allowed to ask certain  
12 questions about what happened to  
13 him as far as the accident, for  
14 both parties, and information  
15 that we would need, regardless if  
16 an attorney was there or not.

17 Q So your opinion is that,  
18 even if he's represented by a  
19 Counsel, you're allowed to ask  
20 him directly about the details of  
21 an accident?

22 A Yes, that he was involved  
23 in, yes, to get his pedigree  
24 information.

25 Q Okay. But you said earlier

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 that you're allowed to ask him  
3 the details of the accident,  
4 correct?

5 A Yeah, as far as what  
6 happened from the accident, yes.

7 Q So you would agree with me  
8 that, asking him about what  
9 happened in the accident is more  
10 than just pedigree information?

11 A Yes.

12 Q And even regarding pedigree  
13 information, is there a reason  
14 why he couldn't ask his attorney  
15 to collect that information?

16 MR. GOSLING: Objection.

17 You can answer.

18 A Well, I don't believe at any  
19 point he refused to give us any  
20 information like that in regards  
21 to an accident report or just his  
22 name and say that he wasn't going  
23 to answer any questions in  
24 regards to that.

25

1                   Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 BY MR. LORD:

3                   Q                 So you're saying, at no  
4                                      point while you were on the scene  
5                                      did the attorney indicate that  
6                                      Mr. Williams would not answer any  
7                                      questions?

8                                      MR. GOSLING: Objection.

9                                      You can answer.

10          A                 No, as far as him saying  
11                              that, I can't recall. I'm  
12                              talking about the individual with  
13                              Mr. Williams -- is that correct?

14 BY MR. LORD:

15          Q                 Okay. So if Mr --

16                              MR. LORD: Withdrawn.

17 BY MR. LORD:

18          Q                 In your opinion,  
19                              Mr. Williams had to tell you  
20                              verbally that he is not going to  
21                              say anything, his attorney could  
22                              not do it for him?

23                              MR. GOSLING: Objection.

24                              You can answer.

25          A                 No, his attorney could speak

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 for him, yes.

3 BY MR. LORD:

4 Q But you don't have a memory  
5 of whether the attorney spoke for  
6 him or not?

7 A No, I can't recall. I know,  
8 specifically, at the hospital, he  
9 mentioned to not answer any --  
10 refused a test and not answer any  
11 of those questions.

12 Q The last thing I want to  
13 confirm, this report was entered  
14 by -- this is your name?

15 A Yeah, that's me. Yep.

16 Q And that is your name  
17 because you are, in fact, the  
18 person who entered the report,  
19 correct?

20 A Correct.

21 Q This is "assisting officer,"  
22 and that's your name as well?

23 A Yes.

24 Q And you're labeled  
25 "assisting officer" because you

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 and Officer Hernandez are  
3 partners; is that correct?

4 A Correct.

5 MR. LORD: We will stop  
6 sharing at this point.

7 (At which time, counsel  
8 stopped screen sharing the  
9 exhibit.)

10 MR. LORD: I just have one  
11 more thing.

12 So I am going to be  
13 playing what I will mark as  
14 Plaintiff's Exhibit 2.

15 This is the body-cam  
16 footage dated 2019-12-15  
17 underscore 01-50-16. This is  
18 just for, you know, for  
19 purposes -- this is when he is  
20 placed in handcuffs, if you  
21 wanted to do an independent.

22 So I'm going make that big  
23 and then I am going to share  
24 screen.

25 (At which time, counsel

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 screen shared the exhibit  
3 with the witness and all  
4 parties.)

5 \* \* \* \* \*

6 (Plaintiff's Exhibit 2  
7 was NOT marked during the  
8 deposition as indicated by  
9 counsel.)

10 \* \* \* \* \*

11  
12 MR. LORD: Can you see  
13 this still of a video?

14 MR. GOSLING: No. You  
15 haven't shared the screen yet.

16 MR. LORD: Okay. Can you  
17 see it?

18 (At which time, counsel  
19 screen shared the exhibit  
20 with the witness and all  
21 parties.)

22 MR. GOSLING: We could see  
23 it now, yeah.

24 MR. LORD: So what I'm  
25 going to do -- I'm not going to

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 play the entire thing. I am  
3 going to play like the first, I  
4 think, minute, 30 seconds. I'm  
5 going to let it play, and then  
6 I'm going to ask you questions  
7 about.

8 THE WITNESS: Whose body  
9 camera is this?

10 MR. LORD: I'm not sure  
11 whose body camera this is. I  
12 was given this by your  
13 attorney. You can ask him.

14 I'm going to start playing  
15 now. The sound is on.

16 (At which time, counsel  
17 screen shared and played the  
18 video with the witness and  
19 all parties.)

20 MR. GOSLING: We can't  
21 hear anything.

22 THE WITNESS: There is no  
23 audio.

24 MR. LORD: There is no  
25 audio. It hasn't kicked in

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 yet.

3 (At which time, counsel  
4 screen shared and played the  
5 video with the witness and  
6 all parties.)

7 MR. LORD: Can you hear it  
8 now?

9 MR. GOSLING: It's very  
10 low.

11 MR. LORD: I will raise  
12 the volume.

13 MR. GOSLING: Can you  
14 pause it for a second?

15 MR. LORD: Yeah, no  
16 problem.

17 MR. GOSLING: So just so  
18 you're aware, I can hear  
19 whatever is coming through on  
20 the radio loud, but I can't  
21 really hear conversations, to  
22 the extent there are any right  
23 now, between, you know, your  
24 client and whatever else is  
25 happening in the video. It's

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 just the radio that we can  
3 hear.

4 MR. LORD: It was at the  
5 maximum volume.

6 I will not ask questions  
7 about any conversation, so if  
8 that's an issue, I'll make sure  
9 I don't ask.

10 (At which time, counsel  
11 screen shared and played the  
12 video with the witness and  
13 all parties.)

14 BY MR. LORD:

15 Q So I'm stopping the video,  
16 the video ending 01-50-16 at one  
17 minute and 40 seconds.

18 Officer Ottaviano, was this  
19 your body cam, or was it someone  
20 else's?

21 A It appears to be my body  
22 camera.

23 Q What did we just see in that  
24 one minute and 40 second segment?

25 A You would have just seen the

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 defendant in the back of the  
3 seat, the vehicle, and asking him  
4 some sort of question about the  
5 incident and him being placed  
6 under arrest.

7 MR. GOSLING: Just to be  
8 clear for the record, when he  
9 says "Defendant," I believe he  
10 is referring to Mr. Williams.

11 THE WITNESS: Yes.

12 BY MR. LORD:

13 Q So this body-cam video has a  
14 timestamp; is that correct?

15 A Yes.

16 Q What does the timestamp say?

17 A 1:51.

18 Q Is that 1:51 a.m.?

19 A Yes.

20 Q So is it fair to say Mr.  
21 Williams was placed under arrest  
22 at, approximately, 1:51 a.m.?

23 A Well, that's when he would  
24 have been handcuffed, but not  
25 necessarily -- because if you put

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 someone in handcuffs right away,  
3 that doesn't mean that's the  
4 exact arrest time. The arrest  
5 time is when you put it over to  
6 Central on the radio. It's  
7 normal for there to be a little,  
8 you know, a little delay. And  
9 sometimes the camera or the time  
10 on that isn't always accurate.

11 Q So you're saying that the  
12 official arrest time is the time  
13 when the arrest is reported to  
14 the Central Precinct, not  
15 necessarily when an individual is  
16 placed in handcuffs, correct?

17 A Correct.

18 Q In this instance, when you  
19 place him in handcuffs, you place  
20 him in handcuffs because he was  
21 under arrest at this time?

22 A Yeah, at that time he wasn't  
23 free to leave.

24 Q So you just may have  
25 reported this incident to Central

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 at a later time than the time he  
3 was actually arrested?

4 A Yeah, after -- after getting  
5 him medical attention and  
6 finishing up on scene, by the  
7 time -- yeah, I put the arrest  
8 time, which was shown on the  
9 arrest report.

10 MR. LORD: So I'm stopping  
11 the share at this point.

12 (At which time, counsel  
13 stopped screen sharing the  
14 exhibit.)

15 MR. LORD: I believe I  
16 have no further questions.

17 MR. GOSLING: Can we take  
18 ten minutes, and I just have a  
19 couple of things?

20 MR. LORD: That's fine.  
21 So like 1:15, around that time?

22 MR. GOSLING: 1:15 is  
23 good.

24 MR. LORD: All right. See  
25 you soon.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 \* \* \* \* \*

3 (At which time, a brief  
4 recess was held until 1:15  
5 p.m.)

6 \* \* \* \* \*

7 MR. GOSLING: Just a  
8 couple of questions.

9 EXAMINATION

10 BY MR. GOSLING:

11 Q Good afternoon, Police  
12 Officer Ottaviano.

13 Who from NYPD conducts  
14 Breathalyzer testing?

15 A Highway does, usually, from  
16 the 45th Precinct.

17 Q That's a highway -- is there  
18 a name for that division?

19 A I.D.T.U. is the testing that  
20 they do. Yeah, just highway  
21 officer.

22 Q Do you work as a highway  
23 officer or I.D.T.U.?

24 A No, I don't.

25 Q When Mr. Williams was

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 arrested for suspicions of  
3 driving while intoxicated, was  
4 that based on your visual  
5 observations from what happened  
6 when you were on the scene?

7 A Yes.

8 Q When you -- the accident  
9 happened on December 15th,  
10 2019 --

11 MR. GOSLING: Withdrawn.

12 BY MR. GOSLING:

13 Q When you responded to the  
14 accident, that was on the  
15 December 15th, 2019?

16 A Yes.

17 Q That was on the Bronx River  
18 Highway?

19 A Yes.

20 Q How many lanes of -- were  
21 there at the scene of the  
22 accident?

23 A Approximately, I think there  
24 was like three or four lanes.

25 Q When you indicated before --

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: Withdrawn.

3 BY MR. GOSLING:

4 Q Were you the arresting  
5 officer for this incident?

6 A No.

7 Q When Counsel showed you the  
8 arrest report before -- is it  
9 possible we can just bring that  
10 back up?

11 MR. GOSLING: Give me one  
12 brief second. Let me share  
13 screen.

14 (At which time, counsel  
15 screen shared the exhibit  
16 with the witness and all  
17 parties.)

18 MR. GOSLING: Okay. Can  
19 you guys see it?

20 MR. LORD: Yeah.  
21 Can you just actually  
22 bring it up to the description  
23 part?

24 MR. GOSLING: Yeah. Here  
25 we go. Right here. The

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO  
2 details section right here?  
3 MR. LORD: Yeah.  
4 MR. GOSLING: I'll leave  
5 it here.

6 BY MR. GOSLING:

7 Q Officer Ottaviano, when it  
8 says at time --  
9 TPO A/O, what does "A/O"  
10 mean?

11 A Arresting officer.

12 Q That was not you, was it?

13 A No, I'm not the arresting  
14 officer.

15 Q Does this report indicate  
16 who the arresting officer was?

17 A Yes.

18 MR. GOSLING: You want me  
19 to scroll down to it, the  
20 section?

21 MR. LORD: Yes, please, at  
22 the bottom.

23 MR. GOSLING: Let the  
24 record reflect --

25 I'm sorry, what the Bates,

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 just so I could be clear?

3 MR. LORD: 19.

4 MR. GOSLING: Let the  
5 record reflect that we are now  
6 showing the witness what was  
7 Bates marked as D underscore  
8 00019. Sorry. I didn't know  
9 how many 0s were there.

10 BY MR. GOSLING:

11 Q (Reading from Document)

12 Where it says "arresting  
13 officer, officer's name," can you  
14 read what that says?

15 A Yes. It's Officer  
16 Hernandez, Oscar.

17 MR. GOSLING: I have no  
18 further questions.

19 MR. LORD: I think we are  
20 done then.

21 THE REPORTER: Can someone  
22 send me the exhibits?

23 MR. LORD: Yes. I'll send  
24 them right now.

25 Off the record.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 (At which time, a  
3 discussion was held off the  
4 record.)

5 MR. GOSLING: Let me put  
6 something on the record.

7 Defendants would like to  
8 renew their requests for the  
9 releases that were previously  
10 sent to Plaintiff for the  
11 T-Mobile, Progressive  
12 Insurance, among others, I  
13 think, it was taxes as well,  
14 that was served on you,  
15 approximately, two weeks ago,  
16 just in light of discovery  
17 pending within the next week or  
18 so.

19 \*\*\*REQUEST\*\*\*

20 MR. LORD: Yes.

21 Just so we're clear, I did  
22 respond and we're going to get  
23 those out tomorrow. So that's  
24 -- hopefully, we can do that  
25 tomorrow.

1 Deposition of Defendant P.O. JOSEPH OTTAVIANO

2 MR. GOSLING: All right.

3 Thank you.

4 Off the record.

5 (At which time, a  
6 discussion was held off the  
7 record.)

8 \* \* \* \* \*

9 (At which time, 1:27  
10 p.m., the examination of  
11 POLICE OFFICER JOSEPH  
12 OTTAVIANO concluded.)

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2           This is the Deposition of

3

POLICE OFFICER JOSEPH OTTAVIANO

4

taken in the matter, on the date, and

5

at the time and place set out on the

6

title page hereof.

7

8           It was requested that the deposition be  
9           taken by the reporter and that same  
10          be reduced to typewritten form.

11

12          It was agreed by and between counsel  
13          and the parties that the Deponent  
14          will read and sign the transcript of  
15          said deposition.

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1

REPORTER'S CERTIFICATION

2

3           I, LAURA ANTIDORMI, a Court Reporter  
4 and Notary Public certified in and for the  
5 State of New York, do hereby certify that I  
6 recorded stenographically the proceedings  
7 herein at the time and place noted in the  
8 heading hereof, and that the foregoing  
9 transcript is true and accurate to the best of  
10 my knowledge, skill and ability.

11

12

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LAURA ANTIDORMI

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1 DEPONENT'S CERTIFICATE

2 STATE OF \_\_\_\_\_ :

3 COUNTY/CITY OF \_\_\_\_\_ :

4

5 Before me, this day, personally  
6 appeared POLICE OFFICER JOSEPH OTTAVIANO, who,  
7 being duly sworn, states that the foregoing  
8 transcript of his/her Deposition, taken in the  
9 matter, on the date, and at the time and place  
10 set out on the title page hereof, constitutes  
11 a true and accurate transcript of said  
12 deposition.

13

14

15 POLICE OFFICER JOSEPH OTTAVIANO

16

17

18

19 Signed and subscribed to before me  
20 this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

21

22

23

24

25

NOTARY PUBLIC, STATE OF NEW YORK

1 DEPONENT'S DECLARATION  
2

3 DECLARATION UNDER PENALTY OF PERJURY

4 I, POLICE OFFICER JOSEPH  
5 OTTAVIANO, declare, under penalty of perjury,  
6 that I have read the entire transcript of my  
7 Deposition taken in the above-captioned  
8 matter, or the same has been read to me, and  
9 the same is true and accurate, save and except  
10 for changes and/or corrections, if any, as  
11 indicated by me on the ERRATA SHEET hereof,  
12 with the understanding that I offer these  
13 changes as if still under oath. I would like  
14 changes made to my deposition transcript as  
15 indicated on the following page:

16  
17 Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.  
18

19 \_\_\_\_\_  
20 POLICE OFFICER JOSEPH OTTAVIANO  
21  
22  
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25

## ERRATA SHEET

INSTRUCTIONS: After reading the transcript of your testimony, please note any change, addition or deletion on this sheet. DO NOT make any marks or notations on the actual transcript.

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CASE NAME: WILLIAMS v CONY, ET AL.

HELD: THURSDAY, FEBRUARY 3, 2022

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POLICE OFFICER JOSEPH OTTAVIANO

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Signature \_\_\_\_\_ Date \_\_\_\_\_

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POLICE OFFICER JOSEPH OTTAVIANO

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